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OCT 16 2006

OFFICE OF PETITIONS

In re Application of :  
Gregorat :  
Application No. 09/461,072 : Decision on Petition for  
Filed: December 14, 1999 : Patent Term Extension  
Docket No.: 2000.03.002.WSO :  
For: DATA SYNCHRONIZATION SYSTEM :  
AND METHOD OF OPERATION :  
:

The above-identified application has been forwarded to the undersigned for consideration on a petition for patent term extension entitled "Petition To Correct Excessive Patent Term Adjustment Calculation" received July 11, 2006, which is being treated as a petition for patent term extension under 37 CFR 1.181.

The petition is granted.

Issue of the above-identified application was delayed due to appellate review by the Board of Appeals and Interferences, and the above-identified application has been allowed after a decision of the Board reversing an adverse determination of patentability.

A Notice of Appeal was filed in the above-identified application on October 9, 2002. On August 13, 2004, the Board of Appeals and Interferences reversed the decision of the examiner in the above-identified application. Since the above-identified application was filed after June 7, 1995, there is no terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review, and issuance of the application as a patent was delayed due to appellate review resulting in a reversal of an adverse decision of patentability, the patent to issue from the application is entitled to an extension of the patent term. The period of delay in the above-identified application is the period beginning on October 9, 2002, the date that the Notice of Appeal was filed, and ending on August 13, 2004, the date of the final decision in favor of the applicant. Three years after the filing date of the application is December 14, 1999. Accordingly, the period of extension is required to be reduced pursuant to 37 CFR 1.701(d)(1) by the amount of time prior to three years after the filing date of the application. As a result, the period of extension is **609 days**, not 675 days, as printed on the Notice of Allowance, which is the period from December 14, 2002 to August 13, 2004, including the beginning and end dates.

After mailing of this decision, the patent, if issued, will include an indication that the patent term is extended by **609 days**.

Further correspondence with respect to this matter should be addressed as follows:

By fax: Attn: Patent Term Extension Reply  
(571) 273-8300

By mail: Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Petitioner's deposit account has not been charged a petition fee.

Inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.

metabolit

Mark O. Polutta  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of the Deputy Commissioner  
for Patent Examination Policy